

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY
11/06/2001

*** FILED ***
11/14/2001
CLERK OF THE COURT
FORM V000A

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

CV 2001-014552

Docket Code 019 Page 1
FILED: _____

WARREN PROPERTIES INC, et al.
v.
ANUSHA SARKISSIAN, et al.

JERRY W WARK

ANUSHA SARKISSIAN
4131 E INDIAN SCHOOL #207
PHOENIX AZ 85018-0000

SIERRA SARKINSSIAN
4131 E INDIAN SCHOOL #207
PHOENIX AZ 85018-0000
COURT ADMIN-CIVIL-CCC
PHX JUSTICE CT-CENTRAL
REMAND DESK CV-CCC

MINUTE ENTRY

This Court has jurisdiction of this appeal of a Forcible Detainer Judgment pursuant to the Arizona Constitution Article IV, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement and the Court has considered and reviewed the record of the proceedings from the Central Phoenix Justice Court. The Court has read and reviewed Appellant's Memoranda; Appellee has not filed an[y] Memoranda other than their Motion to Dismiss, which was denied in a separate minute entry.

The primary issue raised by the Appellant concerns the sufficiency of the evidence to warrant the judgment for Appellee. When reviewing the sufficiency of the evidence, an appellate court must not re-weigh the evidence to determine if it would reach the same conclusion as the original trier of fact.¹ All evidence will be viewed in a light most favorable to sustaining a judgment and all reasonable inferences will be resolved against

¹ *State v. Guerra*, 161 Ariz. 289, 778 P.2d 1185 (1989); *State v. Mincey*, 141 Ariz. 425, 687 P.2d 1180, cert. denied, 469 U.S. 1040, 105 S.Ct. 521, 83 L.Ed.2d 409 (1984); *State v. Brown*, 125 Ariz. 160, 608 P.2d 299 (1980); *Hollis v. Industrial Commission*, 94 Ariz. 113, 382 P.2d 226 (1963).

the Appellant.² If conflicts in evidence exist, the appellate court must resolve such conflicts in favor of sustaining the judgment and against the Appellant.³ An appellate court shall afford great weight to the trial court's assessment of witnesses' credibility and should not reverse the trial court's weighing of evidence absent clear error.⁴ When the sufficiency of evidence to support a judgment is questioned on appeal, an appellate court will examine the record only to determine whether substantial evidence exists to support the action of the lower court.⁵ The Arizona Supreme Court has explained in *State v. Tison*⁶ that "substantial evidence" means:

More than a scintilla and is such proof as a reasonable mind would employ to support the conclusion reached. It is of a character which would convince an unprejudiced thinking mind of the truth of the fact to which the evidence is directed. If reasonable men may fairly differ as to whether certain evidence establishes a fact in issue, then such evidence must be considered as substantial.⁷

This Court finds that the trial court's determination was not clearly erroneous and was supported by substantial evidence.

Appellant complains that the trial judge did not consider all the evidence which he offered. However, the trial judge did admit Appellant's most recent complaint against her landlord (Appellee) and considered her testimony about the other complaints. The trial judge explained that the most recent complaint was the most relevant one. The trial judge did not err in refusing cumulative evidence.

IT IS THEREFORE ORDERED affirming the judgment in this matter.

IT IS FURTHER ORDERED remanding this case back for all future proceedings to the Central Phoenix Justice Court.

² *State v. Guerra*, supra; *State v. Tison*, 129 Ariz. 546, 633 P.2d 355 (1981), cert. denied, 459 U.S. 882, 103 S.Ct. 180, 74 L.Ed.2d 147 (1982).

³ *State v. Guerra*, supra; *State v. Girdler*, 138 Ariz. 482, 675 P.2d 1301 (1983), cert. denied, 467 U.S. 1244, 104 S.Ct. 3519, 82 L.Ed.2d 826 (1984).

⁴ In re: Estate of Shumway, 197 Ariz. 57, 3 P.3d 977, review granted in part, opinion vacated in part 9 P.3d 1062; *Ryder v. Leach*, 3 Ariz. 129, 77P. 490 (1889).

⁵ *Hutcherson v. City of Phoenix*, 192 Ariz. 51, 961 P.2d 449 (1998); *State v. Guerra*, supra; *State ex rel. Herman v. Schaffer*, 110 Ariz. 91, 515 P.2d 593 (1973).

⁶ SUPRA.

⁷ Id. at 553, 633 P.2d at 362.